

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF HAWAII

INFORMATION ON FILING BANKRUPTCY WITHOUT AN ATTORNEY

The Bankruptcy Court receives numerous calls from persons asking for information about filing bankruptcy cases without an attorney. This pamphlet answers some of the most frequently asked questions. **NOTE!** You can find much more bankruptcy information, including forms, suggested procedures, guidelines and local rules on our [web page](http://www.hib.uscourts.gov):

www.hib.uscourts.gov

Is Bankruptcy the best way to deal with financial problems? The Bankruptcy Code provides relief for persons with financial problems, but no one should file a bankruptcy case without exploring other options for dealing with these problems. Bankruptcy may not be an effective method of dealing with certain types of debt [e.g., taxes, student loans or other types of non-dischargeable debt] and a bankruptcy filing could have a severe impact on your ability to get credit for many years in the future. Therefore, it is important to consult with credit counseling professionals before making the decision to file a bankruptcy case. Credit counseling services are available from many sources. Attorneys and credit counseling centers can give advice on dealing with financial problems. Credit counseling services may be provided without charge, and some credit unions offer free counseling to their members. Members of the military and their dependants should check with the family service center or legal affairs office to determine what counseling assistance is available. In general, bankruptcy should be considered as a last resort after other methods of dealing with financial problems have failed.

Is it possible to file a bankruptcy case without an attorney? Yes. Current law permits individuals to file their own cases and to represent their own interests in bankruptcy proceedings. However, it may not be wise to do so. Any bankruptcy case can become a complicated matter requiring both knowledge of the law and experience before the court to successfully complete. In order to fill out the forms required to file a case, you will need to know (among other things) the differences between the types of bankruptcies which can be filed, the types of exemptions which can be taken and the differences between secured and unsecured debts. As a case progresses through the court many other areas of law and knowledge may be involved. Decisions made without an understanding of basic bankruptcy law can have serious consequences including the loss of property and legal rights. Only an attorney may file a bankruptcy for a partnership or corporation. Even if an individual is the sole shareholder or the managing partner, that person may not represent the corporation or partnership before the bankruptcy court.

Can the Bankruptcy Court help me? The staff of the court is prohibited from giving legal advice. This means that we cannot assist you in completing forms or deciding the type of bankruptcy you should file. If you decide to file a bankruptcy case without an attorney, you will be on your own. The court will expect you to follow the same rules and procedures as attorneys are required to follow.

What types of bankruptcies are available to an individual debtor? An individual may file a chapter 7, 11, 12 or 13 case. Chapter 7 is the most common and is the type of bankruptcy with which most

people are familiar. A trustee is appointed in a chapter 7 for the purpose of selling property of the debtor which is not exempt under federal or state law. The trustee then pays the money to creditors. Anyone thinking of filing a chapter 7 case should learn which types of property can be exempted under state and federal law. Chapter 13 permits debtors who have a regular source of income to file a plan for payment of some or all of their debts over a period of 3-5 years. Chapter 13 is often used to cure defaults on mortgages in order to save a house, and it may be used to pay some debts which are not dischargeable under chapter 7. When payments under the plan are completed, the debtor receives a discharge of the balance of the pre-petition debts. Chapter 11 is used primarily by operating businesses and is almost never used by an individual consumer debtor. A chapter 11 case is much more complicated and much more expensive than the other types of bankruptcy. The filing fee alone is \$839.00

Where are court hearings held? In a typical chapter 7 or 13 case, the debtor [or both joint debtors] will be required to attend a § 341 creditors' meeting which will be the only required appearance before either the trustee or the court. Creditors' meetings are held in Honolulu, Wailuku, Lihue, and Hilo. In the majority of chapter 7 and 13 cases the debtor is not required to appear for any other hearing. However, if court hearings are required they are held in the bankruptcy courtroom in Honolulu. If debtors are required to appear for such hearings, they may often appear by telephone conference call. The cost of participating in a hearing by conference call is presently about \$40.00. If a debtor files a bankruptcy case and is in default on a mortgage or if there is a foreclosure pending at the time the bankruptcy is commenced, it is very likely that the creditor who holds the mortgage will file a motion for relief from stay which will result in a hearing before the court.

Where can I get more information? There is more detailed information about the types of bankruptcy on the court web page: www.hib.uscourts.gov. Books are published which attempt to explain the bankruptcy process to people wishing to file cases without attorneys. These do-it-yourself guides usually explain the differences between the types of bankruptcies, and they discuss the issues to be considered when filing a case. They contain samples of forms which can be used to solve various problems. These guides are available in most bookstores and many public libraries. Since the bankruptcy law changes often, it is important to read books which are current. Do not depend upon information in any book which was not published within the last few years. There is a major revision of the Bankruptcy Code being considered. If these changes are passed by Congress, all books and other resource materials published before the revisions will be out of date. None of these books can supply you with the experience, knowledge or skill of a bankruptcy professional.

The local bankruptcy rules [which are a section of the local rules of the U.S. District Court] are available for viewing or copying at the Bankruptcy Court Clerk's office. Copies of the local rules can be purchased from West Publishing Co. [1-800-762-5272]. In addition, the rules are available on our web page: www.hib.uscourts.gov

Where can I get the forms? You have several options: (1) Get the forms off the Internet. The court has posted the forms you need to file a case on our web site: www.hib.uscourts.gov. You will find these forms by clicking the "Forms" button on the first page and then click on the hyperlink that says "Forms to File a Case." These forms are in PDF format and can be completed on line. The forms are free and we keep them current. If you do not have a computer, you might use one at a public library or find a friend who can print the forms for you. (2) You can buy them from the court. The package of forms you will need currently costs \$3.20. You can stop at the court [1132 Bishop Street, Suite 250 L] and buy them. If you are not able to visit the court, you can send us a letter requesting the forms, a check for \$3.20 and a self-addressed envelope with \$1.75 in postage. Send us a large 8.5 x 11 envelope. There are many forms and they will not fit in a regular size envelope. (3) You can buy forms from some office supply stores. If you intend to do this, it would be

wise to call the stores and find out if they have the forms you need. Be sure that you are buying current forms or you may not get the forms you need. Do not use their matrix form. See the instructions for preparation of a matrix in this pamphlet.

Does the court require the use of any local forms? We have local rules for preparing the mailing matrix which you must submit with your case. The directions for preparing a matrix are included in this pamphlet. We require that you use our local form for a chapter 13 plan and we have many local rules concerning chapter 13 cases. We require debtors who file without an attorney to use a local reaffirmation agreement and we require that they file a motion for approval of such agreements. We have suggested procedures and forms to use when amending a petition or amending schedules to add creditors. We also have checklists for filing cases which will tell you the number of copies of each document to send to the court when you file a case. Here are some of the materials available on our web page: www.hib.uscourts.gov. All forms are also available at the court.

- *Forms for Filing a Case
- *Application and order for paying filing fee in installments
- *Chapter 13 Plan
- *Guidelines for Chapter 13 Procedures
- *Motion for Extension of Time to File Documents
- *Order for Extension of Time to File Documents
- *Reaffirmation Agreement
- *Motion for approval of Reaffirmation agreement
- *Memo on Amending a Bankruptcy Case

Where do I file a bankruptcy case? You may file a case in person by bringing the completed forms to 1132 Bishop Street, Suite 250 L, Honolulu, HI 96813. You may also mail the forms to the court. If you mail the forms be sure that you go over the appropriate checklist [attached] and send the court the documents required with the number of copies stated on that checklist.

Must all the documents be filed together? No. The court will accept a bankruptcy filing without the schedules [A-J], the Statement of Affairs, the Chapter 13 plan or the Statement of Intentions. All of these documents are due 15 days from the date on which you filed the petition. If you do not file these documents on time, the court may dismiss your case and may also bar you from filing another bankruptcy case for 180 days. You may amend a petition or the schedules or statement of affairs after they are filed. Review the court pamphlet on amendments.

Must all assets and debts be listed in the schedules and statement of affairs? The bankruptcy process requires that debtors disclose all assets and debts. Severe penalties are imposed on debtors who refuse to cooperate with the trustee or the court and who are dishonest in disclosing necessary information. Actions taken by a debtor to hide assets or to transfer property to friends or relatives may result in either a denial of discharge or attempts by the trustee to recover the property for creditors. Attempts to hide property from the trustee may also result in criminal prosecution. Do not file a bankruptcy case unless you plan to be totally open and honest about all aspects of your finances.

Are there any sources of free legal assistance? Yes, but not to everyone. Legal Aid Society of Hawaii will represent persons who meet their income guidelines. Most debtors are given assistance in preparing their own petitions through workshops [call 536-4302 on O'ahu] but full representation is available in some instances. Volunteer Legal Services Hawaii also conducts workshops on filing bankruptcies. They refer some indigent persons to attorneys who will provide free legal services. [Call 528-7046 or 1-800-839-5200 from outer islands] The Honolulu Lawyers Referral Service [537-0140]

gives callers the names of several attorneys who have indicated a interest in bankruptcy law. The fees charged by these attorneys are not regulated by the Service and are likely to be the standard fees charged by each attorney.

What about using a Petition Preparer? There are a number of individuals in Hawaii who run businesses which assist debtors in filing bankruptcy petitions and other forms for a fee. These people will help debtors by taking information supplied by the debtors and creating the forms necessary for filing a bankruptcy case. They often create well executed forms and they are often helpful in explaining general procedures. They are not attorneys and are not allowed to give legal advice as part of their services. They cannot represent a debtor in court.

How much does it cost to file bankruptcy? The filing fee for a chapter 13 is \$194.00, and the fee for a chapter 7 is \$209.00. Filing fees may not be waived at this time. The filing fee in a chapter 7, 12 or 13 case may be paid in 4 (or less) installments over 120 days if an application to pay by installments is filed with the case. Only individual debtors may pay fees in installments. The filing fees are in addition to any legal fees charged by a professional for services in preparing a bankruptcy case and for legal advice.

Will filing a bankruptcy stop creditors from collection actions and from calling me? The filing of a bankruptcy action will stop almost all acts to collect debts which were due at the time of filing, including law suits, repossessions and foreclosures. However, some creditors may request the bankruptcy court to allow them to proceed with an eviction or a repossession or a foreclosure after the case is filed. The bankruptcy law may permit such actions to continue even after the case is filed.

How are creditors notified of the bankruptcy? When a bankruptcy is filed, the debtor gives the court a mailing matrix which is used by the court to notify creditors of the filing of the bankruptcy. A notice is mailed by the court which informs creditors of the date for the meeting of creditors. It is usually received by creditors within a week of the filing of the petition. Instructions for preparation of the mailing matrix are attached to this pamphlet.

Are there any debts which are not discharged by a bankruptcy? Yes. The Bankruptcy Code makes alimony, child support, criminal fines and penalties, judgments resulting from death or personal injury against a person who was driving while impaired and most taxes non-dischargeable. These debts are still owed after the bankruptcy case has ended. Most guaranteed student loans are not discharged unless the debtor files a separate legal action seeking a hardship discharge of these loans. In addition, certain creditors can ask the bankruptcy court to find their debts nondischargeable if the debts were incurred due to the fraud or misrepresentation of the debtor [and for other reasons stated in Section 523 and 727 of the Bankruptcy Code]. You should be aware that the filing of a bankruptcy case may not prevent a mortgage foreclosure or the repossession of your car. If you are filing a bankruptcy case to prevent a secured creditor from taking such actions, you should not do so without getting legal advice on how the bankruptcy will affect these actions.

What is a discharge? The goal of most people who file bankruptcy is to get a discharge of some or all of their debts. In a chapter 7 case all debts which can be discharged (see discussion above) will be discharged approximately four months from the time the case is filed. In a chapter 13 case, those debts which were not paid under the plan will be discharged when all payments have been made as required by the plan.

Will the bankruptcy affect my credit rating? Yes. The record of your bankruptcy may appear on your credit report for as long as 10 years after the date on which the bankruptcy was filed. It may be very

difficult to borrow money as long as this information appears on the report.

How can I look at or get copies of documents from my bankruptcy file? Your bankruptcy file at the court is available to you or to anyone else to look at. If you come to the court we can give you copies of documents in your file – but we charge for the copies – 50 cents if we make the copies or 10 cents if you print them from a terminal at the court. You can also access your file on the Internet. In order to look at your file you must register for **PACER**. The instructions for registration are posted on our web page. You will be charged 7 cents per page for documents which you open on **PACER**. At present the PACER Service Center is not billing persons who do not accumulate at least \$10.00 in fees during the course of a year.

Court Address: 1132 Bishop Street, Suite 250 L, Honolulu, HI 96813

Directions to the Court: The court is located on Bishop Street between Beretania and Hotel Streets. The building is a 30 story brown, modern office building and is sitting behind a row of one story shops which face Bishop Street. There is an entrance on Fort Street Mall. Our web page has a map of this area.

Parking: There is parking in this building but the court does not validate parking tickets. The cost of parking in this building is \$3.00 per half hour. There are many other parking lots and structures nearby. There is a lot with parking meters on the corner of Beretania and Bishop Streets next to the Episcopal Cathedral. The cost of parking there is 25 cents for each quarter hour.

UNITED STATES BANKRUPTCY COURT DISTRICT OF HAWAII

Preparing A Mailing Matrix

The court may send out several notices to creditors and other parties during the course of the case. Therefore, it is important that the matrix is prepared correctly. Please follow the instructions below:

- * The matrix needs to be typed so that the scanner can read it. Use a standard font. We recommend 12 pt. Courier or Times Roman if these fonts are available to you. Note! Attorneys and Petition Preparers are required to file a mailing matrix as an ASCII Text file on a disk. Only a pro se debtor may file a mailing matrix on paper.
- * Include the names and addresses of all creditors listed in your schedules. Do not include yourself on this list. There may be persons other than those to whom you owe money who should receive notices -- such as the attorney for a creditor with whom you have been corresponding, or a collection agency which is trying to collect a debt from you or a court in which a case has been filed against you. These persons may be listed on your matrix even though they were not put in your schedules as creditors.
- * List the names and addresses just as you would when addressing an envelope to that person but put the last name first [of individuals]. Do not include account numbers in the address. If you need to include an attention line (Attn:_____), put it as the second line of the address rather than the last line. The last line should contain the city, state and zip code only.
- * List the names and addresses in a single column down the left hand margin of the paper. The margin should be at least one inch. Leave 2 inches of blank space at the top and bottom of each sheet, and skip 3 lines between each address. If you buy a forms package, do not use the address grid which is provided in the package. This will not work. Look at the sample matrix which is printed below.
- * Sign the verification of matrix form which is attached to the instruction sheet and file it with the matrix.
- * Do not give us partial addresses. If you do not have a good address for a creditor, make an effort to find this information before you file the case. If you give us an incorrect address for a creditor, that creditor may not get notice of the case.

Here is an **example** of how a mailing matrix should look.

Put nothing on the matrix except names and addresses.

Put the debtor's name on the back of the matrix

Smith, Mary L.
2503 Mott-Smith Drive Apt. 300
Honolulu, HI 96820

Lee, John L.Y.
P.O Box 9773
Kaneohe, Hi 96322

XYZ Collection Agency
Att'n. James Ng
22130 Alapai Drive
Waimea, HI 99357

Xerox Corporation
Attn: John Smith, Accounting
1011 Adams Street,
New York, NY 10010

Hans Joerg Holzwarth
1134 Linden Str.
93323 Freudenstadt
Germany

Matrix Formatting ERRORS

THESE ARE ERRORS TO AVOID WHEN CREATING A MATRIX!

State of Hawaii
Dept. of Taxation
Keelikolani Bldg.
P.O. Box 3423
830 Punchbowl Street
Honolulu, HI 96813

**address block contains more than
five lines of text**

Orthopedic Associates, Inc.
1380 Lusitana, Suite 608
Honolulu, HI 96813
Physicians' Anesthesia Service
C/O Select Consulting Service
1481 S. King St., Suite 539
Honolulu, HI 96814

**leave 3 spaces between the
addresses**

Robert E. Chapman, Esq.
Stanton Clay Thomas Chapman & Crumpton
345 Queen Street, Suite 600
Honolulu, HI 96813

**format is "last, first, middle, suffix"
line exceeds 35-character maximum**

U.S. West Community

c/o Continental Credit Service

550 Kirkland Way

Kirkland, WA 98083-0969

address lines must be single-spaced

Accutrack Data Collections, Inc.
c/o Allan Y. Okubo, Esq.
98-1238 Kaahumanu St., Ste. 4
Pearl City, HI
96782

text not aligned along left margin

**city, state, and zip code must be on
the same line**

Straub Clinic & Hospital
Pauahi Tower, Suite 320
1001 Bishop Street
Honolulu, HI

~~96826~~ 96813

no handwritten characters

CHECKLIST FOR CHAPTER 7 CASE

Instructions for cases filed on Paper [not for cases filed through CM/ECF]

_____ ***Filing fee of \$209** Is check or money order signed?

OR

_____ ***Application and Order for Installment Payments AND *Attorney Disclosure of Compensation** [if an attorney is representing the debtor]. Only individual debtors can pay in installments. A petition for installment payments can **not** be accepted if the attorney has accepted **any** money from the client which is not paid to the court towards the filing fee [See FRBP 1006].

_____ ***Petition**

Is the petition originally **signed** by the attorney [or by a petition preparer if you paid a preparer for this service]?

Is the petition originally **signed** by the debtor [or by both joint debtors]?

Does the petition state the **street address** and county where debtors reside? A post office box is not sufficient for the street address. The PO Box should be listed in the mailing address box.

If you are a debtor filing without an attorney, list phone number where debtor can be reached.

_____ ***B-21 Statement of Social Security Number** – This is a new form. The full social security number must be stated on this form. Only last four digits of SSN are listed on the petition.

_____ ***Mailing matrix and Verification of Matrix** – Attorneys must file the mailing matrix as a text [.txt] file on a 3.5" floppy disk using the format required by the court. Pro se debtors do not need to give us the matrix on disk. We want all parties filing cases to give us one copy of the matrix on paper and a verification must always be filed with a matrix whether on paper or disk.

_____ **Schedules and Statement of Affairs**— Schedules of Assets and Liabilities (schedules A thru J) and the Statement of Affairs do not have to be filed with the petition. However they are due within 15 days after the petition is filed unless the judge extends the time for filing them. There is a declaration following the schedules and another declaration following the statement of affairs which must be originally signed by the debtor[s].

_____ **Statement of Debtor's Intentions**

*** These documents are required to be filed with the petition.**

NOTE!

SCHEDULES AND STATEMENT OF AFFAIRS: Schedules and Statement of Affairs are due 15 days from the filing of the petition. If they are not filed on time, the court may dismiss the case and bar the debtor from filing a new case for 180 days.

COPIES – We do not require any copies to be filed with the original documents. However, if you wish a file-stamped copy for your records, you should include a copy and self-addressed return envelope with sufficient postage for the copies which you want.

STAPLES – Do not staple any documents together – Please use binder clips.

CHECKLIST FOR CHAPTER 13 CASE

Instructions for cases filed on Paper [not for cases filed through CM/ECF]

_____ ***Filing fee of \$194** – Is the check signed?

OR

_____ ***Application and Order for Installment Payments AND *Attorney Disclosure of Compensation** [if an attorney is representing the debtor] Only individual debtors can pay in installments. A petition for installment payments can **not** be accepted if the attorney has accepted **any** money from the client which is not paid to the court towards the filing fee [See FRBP 1006].

_____ ***Petition**

Is the petition **signed** by the attorney?

Is the petition **signed** by the debtor [or both joint debtors]?

Does the petition state the **street address** of the debtor(s)? A post office box is not a sufficient street address. A post office box should be listed in the mailing address box.

Debtors filing without an attorney should list a phone number where they can be reached.

_____ ***B-21 Statement of Social Security Number** – This is a new form. The full social security number must be stated on this form. Only last four digits of the SSN are listed on the petition.

_____ ***Mailing matrix and Verification of Matrix** – Attorneys must file the mailing matrix as a text [.txt] file on a 3.5" floppy disk using the format required by the court. Pro se debtors do not need to give us the matrix on disk. We want all parties filing cases to give us one copy of the matrix on paper and a verification must always be filed with a matrix whether on paper or disk.

_____ **Schedules and Statement of Affairs** — Schedules of Assets and Liabilities (schedules A thru J) and the Statement of Affairs do not have to be filed with the petition. However they are due within 15 days after the petition is filed unless the judge extends the time for filing them. There is a declaration following the schedules and another declaration following the statement of affairs which must be originally signed by the debtor[s].

_____ **Chapter 13 Plan** — The chapter 13 plan does not have to be filed with the petition, but is due within 15 days after the petition is filed unless the judge extends the time for filing the plan. It is best to file the plan with the petition.

*** These documents are required to be filed with the petition.**

SCHEDULES AND STATEMENT OF AFFAIRS – Schedules and Statement of Affairs are due 15 days from the filing of the petition. If they are not filed on time, the court may dismiss the case and bar the debtor from filing a new case for 180 days.

COPIES – We do not require any copies to be filed with the original documents. However, if you wish a file stamped copy for your records, you should include a copy and a self-addressed return envelope with sufficient postage for the copies which you want returned.

STAPLES – Do not staple any documents together – Please use binder clips.